

LAW OFFICES
LEYDIG, VOIT & MAYER
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION
TWO PRUDENTIAL PLAZA SUITE 4900
CHICAGO, ILLINOIS 60601-6780

PATENT & TRADEMARK
OFFICE

JAN 23 96

PATENT MAINTENANCE
DIVISION

(312) 616-5600
CABLE: WOLFENHUB-CGO
TELEX: 25-3533
TELECOPY: (312) 616-5700

July 14, 1992

COF

C. FREDERICK LEYDIG
JOHN P. BUNDOCK, JR.*
PAUL L. AHERN
BERTON SCOTT SHEPPARD
JAMES B. MUSKAL
DENNIS R. SCHLEMMER
GORDON R. COONS
MICHAEL C. PAYDENT*
JOHN E. ROSENQUIST
JOHN W. KOZAK
CHARLES S. OSLAKOVIC
MARK E. PHELPS
H. MICHAEL HARTMANN
LAWRENCE S. WICK
BRUCE W. GAGALA
CHARLES H. WOTTIER
DONALD W. PETERSON†
JOHN KILYK, JR.
ROBERT F. GREEN
JOHN B. CONKLIN
JAMES O. ZALEWA
MARK J. LISS
JOHN M. BELZ*
HERBERT C. ROSE*
BRETT A. HESTERBERG
KEITH B. WILLHELM
JEFFREY S. WARD

THEODORE W. ANDERSON
ARTHUR A. OLSON, JR.
WILLIAM J. BIRMINGHAM
NOEL I. SMITH
RICHARD M. JOHNSON
PAUL J. KORNICZKY
JOHN MICHAEL CURTIN*
PAMELA J. RUSCHAU
CHRISTOPHER T. GRIFFITH
JEFFREY A. NYAND*
AMY N. COHEN
MAURICE U. CAHN*
MARY CATHERINE MERZ
JOHN TIEDGE
LYNN A. TANNHILL
O. BARTLEY EPPENAUER
RICHARD P. BEEM
STEVEN P. PETERSEN
JOHN M. AUGUSTYN
WESLEY O. MUELLER
JEREMY M. JAY*
JEFFREY B. BURGAN
ELEY O. THOMPSON
NEIL P. CALVIN
MARK JOY
JAMES M. ROBERTSON
LAURA L. BOZEK

OF COUNSEL

RICHARD L. VOIT
PHILLIP H. MAYER
HOWARD J. SCHNEIDER

LEROY W. MITCHELL
ARTHUR G. GILKES
JOHN G. FOSTER*

*RESIDENT IN WASHINGTON OFFICE
†RESIDENT IN ROCKFORD OFFICE

*RESIDENT IN ST. LOUIS OFFICE

WASHINGTON OFFICE
100 THIRTEENTH STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20005
(202) 737-6770
CABLE: WOLFENHUB-WASH
TELEX: 710-622-1931
TELECOPY: (202) 737-6776

ST. LOUIS OFFICE
511 OLIVE STREET
SUITE 1400
ST. LOUIS, MISSOURI 63101
(314) 521-9225
TELECOPY: (314) 241-6056

ROCKFORD OFFICE
815 NORTH CHURCH STREET
ROCKFORD, ILLINOIS 61103
(815) 963-7661
CABLE: WOLFENHUB-RKD
TELEX: 190410
TELECOPY: (815) 963-7664

ILLINOIS OFFICES
LEYDIG, VOIT & MAYER, LTD.

Mr. LeRoy G. Hagenbuch,
President
Philippi-Hagenbuch, Inc.
424 W. Plank Road
Peoria, IL 61604

Re: U.S. Patent No. 4,839,835 - Our Ref. 16842
Maintenance Fee Due : December 13, 1992

Dear Mr. Hagenbuch:

Your above-identified patent, issued on an application filed after August 27, 1982, is subject to U.S. government maintenance fee requirements. Such fees are due three times during the 17 year life of the patent, with the first fee being due 3-1/2 years after the patent issues; i.e., on or before the due date indicated above. Although there is a re-issue application pending pertaining to this issued patent, the maintenance fees must be paid in the issued patent in order to keep the reissue in force until it issues. The total cost of paying the maintenance fee is **\$550.00**, which includes the government fee of \$450.00, assuming that your company still qualifies as a "small entity" (see attachment), and our service charge of \$100.00.

If the maintenance fee is not paid, the patent will lapse and become inoperative. If you would like us to pay this fee, please indicate your authorization on the attached copy of this letter and return it to us. If your check for payment accompanies this authorization, you may deduct \$25.00 from our service charge. To insure timely payment of the fee, your authorization must be received in our **Chicago** office one month prior to the above due date. If we do not hear from you, we will take no further action in connection with this patent.

Very truly yours,

Suzanne I. Moore
U.S. Docket Clerk

sim

July 14, 1992

U.S. Patent No. 4,839,835 - Our Ref. 16842

Small Business Concern is defined by the Small Business Administration as follows:

S 121.12 Small business for paying reduced patent fees.

Pursuant to Pub. L. 97-247, a small business concern for purposes of paying reduced fees under 35 U.S. Code 41(a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent of:)	
HAGENBUCH)	
)	
No. 4,839,835)	
)	
Issued: June 13, 1989)	Attn: Maintenance
)	Fee Division
For: APPARATUS AND METHOD)	
RESPONSIVE TO THE ON-)	Box M Fee
BOARD MEASURING OF)	
THE LOAD CARRIED BY A)	
TRUCK BODY)	

VERIFIED STATEMENT PURSUANT TO 37 C.F.R. § 1.28(c)
EXPLAINING ERROR IN CONNECTION WITH SMALL ENTITY STATUS

This verified statement is made by LeRoy G. Hagenbuch in connection with the accompanying "Notification Pursuant to 37 C.F.R. §§ 1.28(b) And (c) Of Loss Of Entitlement Of Small Entity Status And Error In Payment Of Fee As A Small Entity" (hereinafter "the Notification").

1. I, LeRoy G. Hagenbuch, am the sole inventor and owner of U.S. Patent No. 4,839,835 (hereinafter "the '835 patent"). I also am Chairman of Philippi-Hagenbuch, Inc., 7424 West Plank Road, Peoria, Illinois 61604-5295. At the time patent application for the '835 patent was filed, I was President of Philippi-Hagenbuch, Inc. I executed the two small entity statements filed with the application. One was executed by me as the inventor and the other was executed by me as a representative of Philippi-Hagenbuch, Inc.

2. I have read the Notification. All of the statements in it of which I have personal knowledge are correct to the best of my recollection. For those statements of which I have

In re HAGENBUCH
U.S. Patent No. 4,839,835

no personal knowledge, they are consistent with my understanding and recollection of the events that lead to the erroneous payment of the first maintenance fee of the '835 patent pursuant to a small entity status.

3. I am either a sole or co-inventor for a number of U.S. patents for which the due dates for payment of the maintenance fees are all docketed and monitored by Leydig, Voit and Mayer. In this regard, over the last several years I have received many letters from the docketing department of Leydig, Voit & Mayer reminding me of fees due for both U.S. and foreign patents and patent applications and requesting instructions regarding the payment of those fees. I recognize these letters by their format. I long ago stopped completely reading each of these letters (e.g., the attachment) after I realized they always said substantially the same thing.

4. Although I have no specific memory of it, I recognize the letter of Exhibit A attached to the Notification as a letter I received requesting instructions for the payment of the first maintenance fee for the '835 patent. Pursuant to the format of the letter, I signed its second page and marked a box above my signature authorizing payment of the maintenance fee. I then returned the letter to Leydig, Voit & Mayer. Like the letters I previously received from Leydig, Voit & Mayer, the letter of Exhibit A attaches a statement defining a "small entity." At the time I authorized payment of the maintenance fee for the '835 patent, however, I was not

In re HAGENBUCH
U.S. Patent No. 4,839,835

aware that the Caterpillar license agreement identified in the Notification affected the entitlement of the '835 patent to payment of the maintenance fee pursuant to a reduced fee schedule. Although I have no specific memory of reading the letter of Exhibit A, I doubt that I read its attachment for the reasons set forth in paragraph 3 herein. Moreover, the letter of Exhibit A states the amount of the fee depends on whether my "company still qualifies as a 'small entity'." My company has always qualified for small entity status in that it has always employed less than 500 employees.

5. I did not appreciate that the payment of the first maintenance fee for the '835 patent pursuant to a small entity fee schedule may have been in error until John B. Conklin of Leydig, Voit & Mayer, one of my attorneys, informed me of the error during a telephone conversation in September of 1995 as described in the Notification.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1101 of Title 18 of the United States Code, and that such wilful, false statements may jeopardize the validity of the '835 patent.

Dated: JANUARY 20, 1996


LeRoy G. Hagenbuch

**Chronology of Hagenbuch U.S. Patent Appln. Serial No. 06/717,042
filed April 1, 1985 (Atty. Docket 16842)**

